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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

IN RE: BARD IVC FILTERS
PRODUCTS LIABILITY LITIGATION,

No. 2:15-MD-02641-DGC

**STIPULATION AND FILING
REGARDING PROPOSED
PROCEDURE FOR PARTY FACT
SHEETS**

Pursuant to Case Management Order No. 8, Paragraph II [Doc. 519], and the parties' stipulation to submit proposed fact sheets for use in the bellwether process by no later than March 8, 2016, the parties submit this stipulation regarding a procedure for those fact sheets.

I. Proposed Fact Sheets

The parties have exchanged proposed fact sheets, and have met and conferred and reached agreement as to the form and content of those fact sheets.

1. A copy of the Plaintiff Fact Sheet (PFS) agreed upon by the parties is attached as Exhibit "A"; and
2. A copy of the Defendants' Fact Sheet (DFS) agreed upon by the parties is attached as Exhibit "B".

II. Proposed Procedure Regarding Plaintiff Fact Sheets and Defendants Fact Sheets

A. The parties agree to the following procedures relating to PFS and DFS:

1. PFS and DFS will be completed for each case in **PFS/DFS Group 1**. A copy of the Fact Sheet to be utilized by the Plaintiffs will be attached as Exhibit "A" to the Case Management Order addressing this issue, and a copy of the Fact Sheet to be utilized by the Defendants will be attached as Exhibit "B".
2. A completed PFS and DFS shall be considered interrogatory answers under Fed. R. Civ. P. 33, responses to requests for production under Fed. R. Civ. P. 34, and will be governed by the standards applicable to written discovery under Fed. R. Civ. P. 26 and Fed. R. Civ. P. 37. The PFS and DFS questions and document requests shall be answered without objection. This section does not prohibit a party from withholding or redacting information based on a recognized privilege; however, if information is withheld or redacted, the party so withholding or redacting information shall provide opposing party with a privilege log.

3. The parties will provide a PFS or DFS that is substantially complete in all respects. “Substantially complete in all respects” requires that:
 - (a) Every question in the PFS or DFS be answered, even if a party can only answer the question in good faith by indicating “not applicable” or “I don’t know”;
 - (b) Plaintiffs shall provide the requested records authorizations accompanying the PFS;
 - (c) The parties will produce the documents requested in the PFS and DFS, or provide a statement certifying that there are no responsive documents; and
 - (d) Plaintiffs shall sign the PFS and provide an executed Affidavit attesting that the information contained therein is true and correct to the best of Plaintiff’s knowledge, information and belief, formed after due diligence and reasonable inquiry. If a plaintiff is suing in a representative or derivative capacity, the PFS shall be completed by the person with the legal authority to represent the estate or the person under legal disability. Plaintiff spouses with a claim for loss of consortium shall also sign the PFS, attesting that the responses made to the loss of consortium questions in the PFS are true and correct to the best of his or her knowledge, information and belief, formed after due diligence and reasonable inquiry.
4. If a plaintiff fails to timely submit a PFS, or submits a PFS within the allotted time which Defendants deem not to be substantially complete, Defendants shall mail an overdue/deficiency letter by e-mail and U.S. mail to Plaintiffs’ Co-Lead Counsel and the plaintiff’s individual representative counsel, stating whether the PFS is overdue or deemed deficient, in which case the letter shall identify the purported deficiencies. The letter shall

include sufficient detail for the parties to meet and confer regarding the alleged deficiencies. The plaintiff receiving such deficiency letter shall have fifteen (15) days from receipt of that letter to meet and confer and to serve a PFS that is substantially complete in all respects. Should a plaintiff fail to cure the deficiencies identified and fail to provide responses that are substantially complete in all respects, the parties will submit the dispute to the Court in a manner to be prescribed by the Court, setting forth the efforts the parties made to meet and confer regarding the alleged deficiencies.

Similarly, if Defendants do not submit a DFS within the time specified in this Order, or submit a DFS within the allotted time which Plaintiffs deem not to be substantially complete, Plaintiffs shall mail an overdue/deficiency letter by e-mail and U.S. mail to Defendants' Lead Counsel, stating whether the DFS is overdue or deemed deficient, in which case the letter shall identify the purported deficiencies. The letter shall include sufficient detail for the parties to meet and confer regarding the alleged deficiencies. Defendants shall have fifteen (15) days from receipt of such a letter to meet and confer and to serve a DFS that is substantially complete in all respects. Should Defendants fail to cure the deficiencies identified and fail to provide responses that are substantially complete in all respects, the parties will submit the dispute to the Court in a manner to be prescribed by the Court, setting forth the efforts the parties made to meet and confer regarding the alleged deficiency.

B. Timing of Provision of PFS/DFS

1. Plaintiffs anticipate being able to provide all PFS for the **PFS/DFS Group 1** within thirty (30) days from the final determination of the makeup of **PFS/DFS Group 1**.

2. Defendants anticipate being able to provide all DFS for **PFS/DFS Group 1** within thirty (30) days thereafter.
3. The parties agree to provide completed PFS/DFS on a rolling basis as they are completed.

C. Records Discovery in PFS/DFS Group 1

1. Plaintiffs will execute and provide Defendants with the records authorizations, agreed upon by the parties, which accompany the PFS form. The parties have agreed to jointly retain a records vendor, which will obtain records. The parties have agreed upon the process, costs, and how those costs will be borne for the records obtained through the records vendor. The parties intend to submit to the Court a proposed Case Management Order relating to Joint Records Collection that will address these issues.
2. The parties have agreed that pursuant to the provisions for the records vendor process, upon receipt of each PFS, Defendants may commence immediately with obtaining records on each of the plaintiffs within **PFS/DFS Group 1.**

The Parties will submit an agreed form of proposed Case Management Order for Fact Sheets in advance of the Case Management Conference on March 31, 2016.

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DATED this 18th day of March 2016.

GALLAGHER & KENNEDY, P.A.

SNELL & WILMER L.L.P.

By: s/ Robert W. Boatman

By: s/ Matthew B. Lerner [with permission]

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CERTIFICATE OF SERVICE

I hereby certify that on March 18, 2016, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to all attorneys of record.

s/ Nancy Jo Koenes